

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-077-10096R

Parcel No. 120/00933-000-000

Barbara R. Comer,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

This appeal came before the Property Assessment Appeal Board (PAAB) for written consideration on August 7, 2020. Barbara Comer was self-represented and asked the appeal proceed without a hearing. Assistant Polk County Attorney Jason Wittgraf represented the Board of Review.

Barbara Comer owns a residential property located at 1219 West Street, Des Moines. The property's January 1, 2019, assessment was set at \$68,500, allocated as \$18,000 in land value and \$50,500 in dwelling value. (Ex. A).

Comer petitioned the Board of Review contending the assessment was not equitable compared with the assessments of other like property and that there was an error in the assessment. Iowa Code § 441.37(1)(a)(1 & 4) (2019); (Ex. C). The Board of Review determined there was an error in the assessment and lowered the assessed building value to \$48,900, resulting in a total assessment of \$66,900. (Ex. B).

Comer then appealed to PAAB reasserting her claims and also asserting her property was assessed for more than authorized by law. Iowa Code § 441.37(1)(a)(2).

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701–126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. *Id.*; *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a one-story, bungalow style home built in 1920. It has 822 square feet of gross living area, an unfinished basement, and a 120-square-foot enclosed porch. It is listed in normal condition and below average-quality construction (grade 5+10). The Assessor's Office applied 50% physical depreciation to the dwelling. The site is 0.183 acres. (Ex. A).

Comer purchased the property in 1999 for \$56,000. A permit for the enclosed porch was issued in 2002. (Ex. A).

In her protest to the Board of Review, Comer explained errors in her assessment and reasons she believe it is over assessed. She noted the property lacks a garage, it does not have a paved driveway, and it has no central air conditioning. (Ex. C). We note her property record card and cost sheet indicate she is not assessed for a garage, a paved drive, or air conditioning. Comer also stated her front porch steps have pulled

away from the house and need to be replaced. The Board of Review lowered the assessed building value by \$1600 but there is no explanation for this decision.

Comer described the property immediately to the west of her home as deteriorating and not kept in good repair with missing siding, a bad roof, and lacking window trim. To the east of her home she described a field of junk, an old abandoned vehicle, and a dilapidated dog run. In her opinion, these eyesores would make it difficult to sell her home and she would “be lucky to get \$60,000.” (Ex. C). Comer also submitted photographs of these properties on August 19, and the Board of Review has not objected to their admission. (Exs. 5A & B, 6A & B). For these reasons, Comer requests her assessment remain at the 2017 value of \$61,700.

On her Board of Review Petition, Comer listed three neighborhood properties she believes demonstrate her assessment is not equitable. (Ex C). The property record cards for these properties were not submitted. PAAB took judicial notice of these publicly available documents, as well as the property record card of the neighboring property to the east, 1211 West Street. (Exs. 1-4). The following table summarizes the subject property and these neighboring properties.

Address	Site Size (Acre)	Gross Living Area (SF)	Condition	Grade	Enclosed porch (SF)	2019 Assessed Value
Subject	0.183	822	Normal	5+10	120	\$66,900
1 –1228 West St	0.150	832	Below Normal	5+10	104	\$56,800
2 – 1204 West St	0.150	864	Normal	5+10	120	\$67,200
3 – 1225 West St	0.183	860	Below Normal	5+10	0	\$62,000
4 –1211 West St	0.183	924	Normal	4-10	0	\$72,000

None of the comparables have recently sold. All of the comparables are similar in size, style, age, grade, and site size to the subject.

Comparables 1 and 2 are across the street from the subject. Both have slightly smaller site sizes. Comparable 1 is listed in below-normal condition and has physical depreciation and functional obsolescence applied to its assessment resulting in a lower

value compared to the subject property. Comparable 2 is most similar to the subject yet its total assessed value is \$300 more than Comer's home.

Comparable 3 is immediately west of Comer's home and is listed in below-normal condition; it does not have an enclosed porch. (Ex. 3). Its inferior condition results in greater depreciation applied to the assessment and it has an assessed value \$4900 less than the subject property.

Comparable 4 is immediately east of the Comer's home. It consists of two individually assessed parcels. The parcel adjacent to the subject is an unimproved lot, with a January 1, 2019, assessed value of \$14,400. The second parcel is improved with a dwelling that is larger than the subject, has a higher grade, and a garage listed in below normal condition. The January 1, 2019, assessment of the second parcel was \$72,000; \$5100 more than Comer's property. (Ex. 4).

The Board of Review submitted exhibits required by PAAB and an aerial of Comer's neighborhood, confirming the vacant lot to the east of the subject property.

Analysis & Conclusions of Law

Comer contends her property is inequitably assessed, is assessed for more than authorized by law, and there is an error in her assessment. § 441.37(1)(a)(1,2 &4). She bears the burden of proof. § 441.21(3).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Comer offered the assessed values of neighboring properties to support her claim. However, the record indicates the differing assessments stem from the different conditions of these homes. Nothing in the record shows a non-uniform method of assessing these differences.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133

N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual values (2018 sales) and assessed values (2019) of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.* None of the comparables sold in 2018. Accordingly, the Maxwell analysis cannot be completed. Further, because the *Maxwell* test also requires a showing of the subject property's actual market value as compared to its current assessment and an over assessment claim requires the same showing, we therefore turn to that claim.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion.

None of Comer's neighboring properties have recently sold, nor has the subject property. Comer contends the condition of her neighbors' homes constitute eyesores that would impact her ability to sell her home. However, she did not submit any evidence of the actual impact these conditions have on the property's market value, such as an appraisal or a comparative market analysis.

Finally, Comer claimed there was an error in the assessment. An error may include, but is not limited to, listing errors or erroneous mathematical calculations. Iowa Admin. Code R. 701-71.20(4)(b)(4). Comer cites her lack of a garage, paved driveway and air conditioning as errors in the assessment. However, the record reflects that none of these items are listed on the subject property record card and have not been assessed.

Viewing the record as a whole, we conclude that Comer failed to support her claims.

Order

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Elizabeth Goodman, Board Member



Dennis Loll, Board Member



Karen Oberman, Board Member

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Polk County Board of Review by eFile